**HON'BLE Mrs. JUSTICE T.MEENA KUMARI**
**AND**
**HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO.17456 OF 1996**

**DATE: 03-12-2007**

Between :

M/s. HMT Limited (Machine Tool Division), Balanagar,
Hyderabad, rep.by its Estate Manager
Sri G.S.A. Murthy … Petitioner

And

1. The State of Andhra Pradesh, rep. By its Secretary,
(Municipal Administration), Secretariat,
Hyderabad., and two others. ... Respondents

**HON'BLE Mrs. JUSTICE T.MEENA KUMARI**
**AND**
**HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.17456 OF 1996**

**ORDER :** (Per Mrs. Justice T.Meena Kumari)

This writ petition is filed seeking a declaration that Rule 16 of the A.P. Municipality (Assessment of Taxes) Rues, 1990 as inserted by G.O.Ms.No.624, dated 7.10.1993 by the State Government as ultra vires and constitutional; and for a consequential declaration that the order passed by the 3rd respondent - Regional Joint Director-cum-Appellate Commissioner, dated 1.2.1996 as arbitrary and illegal.

The petitioner is a company fully owned by the Central Government. An extent of Ac.888-29 guntas situated in Qutbullapur village, R.R. District was allotted to the petitioner company under a conveyance deed dated 20.1.1972 wherein the petitioner company constructed its factory and 402 residential quarters and other buildings. It is stated that the petitioner company provided various facilities and amenities at its own cost such as hospital, community hall, recreation club, schools, library and etc. for the benefit of about 3000 employees of the petitioner company living in the residential quarters. It is also claimed that the petitioner company laid down at its own cost the necessary roads, lighting polls, drainage pipe lines, and overhead water tanks for providing water supply and other amenities to the township incurring crores of rupees.

Originally, the Qutbullapur Village was within the territorial jurisdiction of Qutbullapur Gram Panchayat which was accepting the property tax at the rate of Rs.2,14,201-33 ps per year from the petitioner. While so, the Qutbullapur panchayat was upgraded as Municipality on 24.2.1987, thereafter property tax was imposed on the concept of capital value ad accordingly a sum of Rs.3,05,832-40 ps per year was demanded vide demand notice dated 26.5.1987 for the year 1987-88 together with alleged arrears. The same was enhanced to Rs.4,89,489-92 ps for the year 1988-89. Aggrieved by the same, the petitioner filed W.P.No.13660 of 1989 which was disposed of by this Court with a direction to the petitioner company to file an application for grant of exemption under Section 88 of the A.P. Municipalities Act, 1965. Accordingly, the petitioner filed a representation dated 7.10.1989 before the Qutbullapur Municipal Council. However, the Commissioner of Municipality vide letter date 30.3.1990 rejected the request of the petitioner and directed to pay a sum of Rs.6,00,318/- towards property tax. Questioning the said demand, the petitioner filed W.P.No.5261 of 1992. Initially, this Court by order dated 29.4.1992 granted stay of recovery of any additional amount over and above Rs.2,02,151/-. While so, A.P. Municipalities (Assessment of Taxes) Rules, 1990 (for shot, 'the Rules') were amended under GO.Ms.No.624, dated 7.10.1993 thereby inserting Rule 16 and consequently a special notice was issued proposing to increase the yearly tax to Rs.11,13,773/-. Aggrieved by the same, the petitioner preferred a Revision Petition and the same was disposed of by the Commissioner, Qutbullapur Municipality fixing the annual rate of Rs.5,56,886-50 ps. Challenging the same, the petitioner preferred an appeal before the Regional Joint Director, Municipal Administration, Government of A.P. By order dated 1.2.1996 the said Appeal was disposed of permitting the Municipality to collect the revised tax at 75% of Rs.2,02,151/- w.e.f. 1.10.1993 subject to the final decision in

W.P.No.5261 of 1992.

Aggrieved by the said action of the respondents, the present writ petition has been filed.

At the outset, the learned counsel for the petitioner, submitted that during the pendency of this writ petition, Rule 16 of the Rules, 1990 was omitted vide G.O.Ms.No.159, MA, dated 13.3.2000, and therefore the writ petition to the extent of challenge to the vires of Rule 16 has become infructuous.

So far as the order dated 1.2.1996 passed by the 3rd respondent is concerned, it is to be noted that W.P.No.5261 of 1992 was disposed of by a Division Bench of this Court on 11.7.1997 directing Qutbullapur Municipality to issue notice to the petitioner and determine the property tax in accordance with law within a period of 3 months. However, the Division Bench made it clear that the petitioner was not absolved of the payment of property tax at Rs.2,14,201-33 ps per year and granted one month time to pay the arrears if any.

The learned Counsel for the petitioner across the bar submitted that after the disposal of W.P.No.5261 of 1992 the Municipality has been insisting on payment of the property tax at the revised rates without considering the claim of the petitioner that by virtue of Section 88 (3) & (4) of the A.P. Municipalities Act, 1965, the petitioner is entitled for exemption from the property tax. It is contended by the learned counsel for the petitioner that the housing colony of the petitioner company is a self contained township for which all the amenities and infrastructure including roads, drainage, water and electricity were provided and being maintained entirely by the petitioner company at its own cost and it is not deriving any benefit from the water supply and drainage provided by the Municipality.

We do not find any substance in the above contention. Nothing

has been placed before this Court to show that any such exemption as contemplated under sub-sections (3) & (4) of Section 88 of the Act has been granted in favour of the petitioner company. It is true that sub-sections (3) & (4) of Section 88 empowers the Municipal Council with the previous sanction of the Government to exempt any particular part of a Municipality from the payment of the tax on the ground that such area is not deriving full benefit from the water supply, drainage and etc. However, in the absence of any such exemption in favour of the petitioner as on today, we do not find any justifiable reason to hold the impugned action of the Municipality is illegal and consequently the interference by this Court is not warranted.

However, the learned counsel for the petitioner sought liberty of this Court to make an appropriate application before the Government under Section 88 (3) & (4) of the A.P. Municipalities Act, 1965.

Accordingly, granting liberty to the petitioner to make an appropriate application under Section 88 (3) & (4) of the A.P. Municipalities Act, 1965, the Writ Petition is dismissed. No costs. .

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**T.MEENA KUMARI, J.**

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**G. ROHINI, J**

Dt.03-12-2007

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